

# HONORABLE MARSHA J. PECHMAN

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

BOILERMAKERS NATIONAL ANNUITY  
TRUST FUND, on behalf of itself and all  
others similarly situated,

Plaintiff.

V.

## WAMU MORTGAGE PASS THROUGH CERTIFICATES, SERIES 2006-AR1, et al.,

### Defendants

**Master Cause NO. 2:09-cv-00037-MJP**

PRAEICE TO  
PLAINTIFFS' OPPOSITION TO THE  
RATING AGENCIES' JOINT MOTION  
TO DISMISS (DOCKET NO. 178)

## **CLERK'S ACTION REQUIRED**

DORAL BANK PUERTO RICO, on behalf of itself and all others similarly situated,

## Plaintiffs

v.

**WASHINGTON MUTUAL ASSET  
ACCEPTANCE CORPORATION, et al.,**

## Defendants

NO. 2:09-cv-01557-MJP

TO: CLERK OF THE COURT:

AND TO: ALL PARTIES OF RECORD.

PRAEICE TO LEAD PLAINTIFFS'  
RESPONSE IN OPPOSITION TO DEFENDANTS'  
MOTION TO DISMISS

MOTION TO DISMISS

1 You are hereby requested to substitute the attached page 16 for the original in  
2 Plaintiffs' Opposition to the Rating Agencies' Joint Motion to Dismiss (Docket No. 178) to  
3 correct an inadvertent error. Specifically, at line four, Plaintiffs inadvertently referred to  
4 "Plaintiffs" when they meant to refer to "Defendants." This is the only correction. The  
5 correction is not intended to state, nor does it state, any new or additional argument or legal  
6 authority.

DATED this 25<sup>th</sup> day of May, 2010.

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JULY 10, 2014

**PRAECLP TO LEAD PLAINTIFFS'  
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(NO. 2:09-cv-00037-MJP) - 2

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1                   **CERTIFICATE OF SERVICE**

2                   I hereby certify that on May 25, 2010, I electronically filed the foregoing with the  
3 Clerk of the Court using the CM/ECF system which will send electronic notification of such  
4 filing to all counsel of record and additional persons listed below.

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PRAECIPE TO LEAD PLAINTIFFS'  
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(NO. 2:09-cv-00037-MJP) - 6

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1 ***February 11, 2009.*** *Id.* Moreover, by the time the Complaint was filed on November 23,  
2 2009, the delinquency and default rate, one of the best indicators of the degree to which the  
3 Rating Agencies' ratings had been wrong, had increased to more than 51%. ¶ 134.

4 Defendants are free to argue at summary judgment or trial that the public information  
5 about the Rating Agencies was sufficient to put investors on notice prior to late November  
6 2008 that the Rating Agencies were a proper party to any Section 11 claim. But at this stage,  
7 looking at what the Complaint actually alleges about the Rating Agencies as opposed to what  
8 Defendants claim it alleges, it is far from clear that Defendants' statute of limitations  
9 arguments will prevail. The issue of when sufficient information was available to investors to  
10 put them on notice of the Rating Agencies' liability under the Securities Act is an intensely  
11 factual determination that cannot properly be made on a motion to dismiss.  
12

## **CONCLUSION**

15 For the foregoing reasons, Plaintiffs' Motion for Leave to Amend Complaint should be  
16 granted, and the Rating Agencies' Joint Motion to Dismiss the Second Amended Consolidated  
17 Class Action Complaint should be denied.

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**PLAINTIFFS' OPPOSITION TO THE RATING  
AGENCIES' JOINT MOTION TO DISMISS**